Agenda Item: 12-23 Continued Consideration of the Request for Approval of the Statewide Mercury TMDL and Wastewater Permitting Strategy

Explanation:

The Commission postponed to the September 2012 meeting further consideration of a motion to disallow the proposed statewide mercury TMDL and proceed with the 5m approach. The purpose of the postponement was to allow for gathering additional information on the appropriateness of addressing the mercury issue through Subcategory 5m, and on options for determining that waters are not impaired by mercury in fish tissue.

The Division of Water Quality developed a statewide mercury total maximum daily load (TMDL) consistent with Section 303(d) of the federal Clean Water Act. The Division also developed a strategy for implementing the wastewater requirements of the TMDL.

The TMDL quantifies loads from in-state and out-of-state atmospheric and water-related sources, and provides an aggregate statewide wasteload. The wastewater permitting strategy describes how the wasteload will be allocated in individual NPDES permits. The TMDL and strategy provide permitting flexibility not available through other approaches, such as Subcategory 5m.

If approved by the EMC, the TMDL will be submitted to EPA for approval per 40 CFR 130.7(d). If approved by the EMC, the permitting strategy will be applied by DWQ after approval of the TMDL by EPA.

Comments from the public were accepted April 27, 2012 through June 18, 2012. One thousand seven hundred individuals and organizations submitted comments.

Recommendation:

It is the recommendation of DWQ staff that the TMDL and permitting strategy be approved by the EMC.